

Meeting of 2002-5-28 REGULAR MEETING

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
MAY 28, 2002 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, City Manager
 John Vincent, City Attorney
 Brenda Smith, City Clerk
 LTC Anthony Puckett, Fort Sill Liaison

The meeting was called to order at 6:40 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

ROLL CALL

PRESENT: Randy Bass, Ward One
 James Hanna, Ward Two
 Glenn Devine, Ward Three
 Amy Ewing-Holmstrom, Ward Four
 Robert Shanklin, Ward Five
 Barbara Moeller, Ward Six
 Stanley Haywood, Ward Seven
 Michael Baxter, Ward Eight

ABSENT: None.

AUDIENCE PARTICIPATION: None.

CONSENT AGENDA: Separate consideration was requested for Items 3, 9, 17 and 20.

MOVED by Bass, SECOND by Baxter, to approve the Consent Agenda items as recommended with the exception of Items 3, 9, 17 and 20. AYE: Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter, Bass, Hanna, Devine. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for claims which are over \$400.00: Tammy and Carlos Lopez, Southwestern Bell Telephone, Frank L. and Donna Richards, Glenn and Jackie Hamilton and Judith E. Scott. Exhibits: Legal Opinions/Recommendations. Lopez: \$267.57.

(Title) Resolution No. 02-81

A resolution authorizing and directing the City Attorney to assist Frank L. and Donna Richards in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of Six Hundred Dollars and 00/100 (\$600.00).

(Title) Resolution No. 02-82

A resolution authorizing and directing the City Attorney to assist Glenn and Jackie Hamilton in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of One Thousand Fifty Dollars and 00/100 (\$1,050.00).

(Title) Resolution No. 02-83

A resolution authorizing and directing the City Attorney to assist Judith E. Scott in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of Four Thousand Seventy Five Dollars and 00/100 (\$4,775.00).

2. Consider the following damage claims recommended for denial: Southwestern Bell Telephone and Tim Massey. Exhibits: Legal Opinion/Recommendation. Action: Denial of claims.

3. Consider approving the purchase of the properties located at 1108 NW 51st Street, 1110 NW 51st Street and 5102 NW Liberty, all in Lawton, Oklahoma, and authorize the Mayor and City Clerk to execute the Contracts for Sale of Real Property. Exhibits: None.

Moeller said she has a conflict of interest on this item and would abstain from voting.

MOVED by Baxter, SECOND by Devine, to approve Item 3 as recommended.

Bass said he knew the purchase of these homes was required but that the problem will not be solved until the Meadowbrook Bridge work is done. He said the property at 5102 Liberty is being purchased for \$166,000 but the current owner purchased it in 1995 for \$56,000 and it had to be in a flood zone in 1995. Bass reviewed prices of the other two properties, noting much higher purchase prices than what the owners originally paid for their properties. Vincent said the Corps of Engineers disapproved the City's appraisers first set of numbers and they had to be re-done. Shanklin asked why and Vincent said we were not told. Bass said the properties were not appraised as being in a flood zone and Vincent agreed. Vincent said we are allowed to purchase 115% of the replacement value and relocation cost, and two of the three of these include all relocation costs. Vincent said the comment about the flood zone and appraisals are appropriate but the Corps of Engineers takes a different view.

Shanklin asked if the money for this is coming from the City. Vincent said yes, it is part of the City's 50% matching fund. Shanklin said the owners were willing to sell for much less years ago. Baxter said funds had been set aside for the bridge work.

VOTE ON MOTION: AYE: Devine, Ewing-Holmstrom, Haywood, Baxter. NAY: Bass, Hanna, Shanklin. ABSTAIN: Moeller.

Mayor Powell said he had been advised that the motion did not carry. Shanklin said the City is too far into this project and he did not like several things about it either but he would change his vote to yes.

MOTION CARRIED.

4. Consider denying requests for the installation of traffic control devices near #5 NW 29th Street, NW Columbia at 58th Street, NW 20th Street and Elm. Exhibits: None. Action: Deny requests.

5. Consider approving a resolution authorizing the installation of traffic control devices at 4408 SW Parkway, SW 16th and Garfield, SW Washington at 5th Street. Exhibits: Res. 02-84.

(Title) Resolution No. 02-84

A resolution authorizing the installation and/or removal of traffic control devices at certain designated locations within the City of Lawton, Oklahoma.

6. Consider adopting a street light resolution to authorize the installation of street lights for East Side Community Park. Exhibits: Street Light Resolution No. 421. Action: Approval.

7. Consider approval of a State-Local Disaster Assistance Agreement with the Oklahoma Department of Civil Emergency Management for a \$300,000 grant for the preparation of a Storm Water Mitigation Plan and authorize the Mayor to execute the agreement. Action: Approval.

8. Consider directing staff to prepare and submit a Hazard Mitigation Grant Program (HMGP) Application to the Oklahoma Department of Civil Emergency Management to establish a rebate program for the purchase and installation of safe rooms/storm shelters and authorize Mayor and City Clerk to execute said application. Exhibits: Letter. Action: Approval.

9. Consider approving the construction plans for a sewer line along SW Bishop Road and SW Sheridan Road to serve Bishop Manor Apartments at 2602 SW Sheridan Road. Exhibits: Map; Memorandum.

Shanklin asked if City funds were involved in this project. Bob Bigham, City Planner, said no, the project is funded by the developer.

MOVED by Shanklin, SECOND by Devine, to approve Item 9 as recommended. AYE: Ewing-Holmstrom, Shanklin, Moeller, Baxter, Bass, Hanna, Devine. NAY: None. ABSTAIN: Haywood. MOTION CARRIED.

10. Consider approving a resolution providing a free fishing day at Lake Ellsworth for City employees and their families in conjunction with the City Employee Picnic to be held Saturday, June 1, 2002. Exhibits: Resolution No. 02-85.

(Title) Resolution No. 02-85

A resolution declaring Saturday, June 1, 2002, as Free Fishing Day for City employees and their families at Lake Ellsworth.

11. Consider entering into agreement with Patrick Reynolds, Journey Productions, as Technical Director for the 2002 Teen REC 'N ROLL Family Fun Day, June 8, 2002 and authorize the Mayor and City Clerk to execute the agreement. Exhibits: None. Action: Approval.

12. Consider entering into agreement with Vieda Wallace representing Kenya featuring BJ for the 2002 Teen REC 'N ROLL Family Fun Day, June 8, 2002, and authorizing the Mayor and City Clerk to execute the agreement. Exhibits: None. Action: Approval.

13. Consider authorizing the Mayor to execute Work Payment Agreements with Public Service Company of Oklahoma (PSO) to relocate two transmission poles: a) one at the northeast corner of East Gore Blvd. and Flower Mound Road intersection; b) one at the northeast corner of Cache Road and NW 38th Street intersection. Exhibits: Work Pay Agreements. Action: Approval.

14. Consider awarding a construction contract to S.M. Burk Mechanical Contractors for the 2000 CIP Waterline Replacement Project #2001-26. Exhibits: None. Action: Approval in the amount of \$768,950.00.

15. Consider awarding a construction contract to Kent Waller Construction Co. for the McMahon Auditorium (Eastside) Drainage Construction Project #2002-14. Exhibits: None. Action: Approval in the amount of 11,689.00.

16. Consider rejecting the bid proposal for the Lake Ellsworth Gate Operator Repair Project #2001-7 and authorize staff to re-advertise. Exhibits: None. Action: Reject bids and re-advertise.

17. Consider approving plans and specifications for the NW Hoover Avenue Waterline Replacement Project #2001-14 and authorizing staff to advertise for bids. Exhibits: None.

Bass asked when construction would begin and if roads would be closed to traffic. Jerry Ihler, Public Works Director, said it should not involve closing roads; it should take three to four months before actual construction begins; construction is estimated to take 60 days.

MOVED by Bass, SECOND by Hanna, to approve Item 17 as recommended. AYE: Shanklin, Moeller, Baxter, Bass, Hanna, Devine, Ewing-Holmstrom. NAY: None. ABSTAIN: Haywood. MOTION CARRIED.

18. Consider approving a contract between the City of Lawton and the Oklahoma Highway Safety Office for overtime funding of officers to deter underage drinking. Action: Approval.

19. Consider entering into a contract with Mr. & Mrs. Bernard S. Vishneski for fire protection outside the Lawton City limits, and authorize the Mayor and City Clerk to execute the contract. Exhibits: None. Action: Approval.

20. Consider entering into a contract with SW Educational Ministries Association, aka Lawton Christian School and KQRS Radio for fire protection outside the Lawton City limits, and authorize the Mayor and City Clerk to execute the contract. Exhibits: None.

Bass asked if this was renewing an existing contract. Baker said it is their first contract. Vincent said as a result of the situation at the Christian School, they became aware of the need for the contract and it will bring us in compliance with the law.

Bass asked if this could be done without causing problems within the City limits. Bart Hadley, Fire Chief, said crews will not respond unless the City is adequately covered, and if they were engaged in a large fire at the time of receiving a call from these entities, they would not be able to respond and that is stated in the contract. Bass asked what amount they pay the Cache Fire Department for fire protection. Hadley said he thought Cache had a subscription service and it might be \$100 annually but he was not sure and was not sure if it would be the same for businesses and residences.

MOVED by Bass, SECOND by Hanna, to approve Item 20 as recommended. AYE: Moeller, Haywood, Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

21. Consider ratifying the action of the Lawton Water Authority to change the procedure used for leasing agricultural land from a sealed bid process to a public bid auction. Exhibits: See Water Authority. Action: Ratify LWA action to approve the item.

22. Consider ratifying the action of the Lawton Water Authority approving the request of Mr. Tommy G. Morris to change his current Sub-Lease Agreement. Exhibits: See Water Authority. Action: Ratify LWA action to approve the item.

23. Consider renewing the professional services agreement with Robert M. Jernigan as a representative on telecommunication; James C. Ferguson of Walker, Ferguson and Ferguson for defense of Workers' Compensation claims; Sylvia Burgess of Burgess and Burgess, Inc. in evaluating the City's flexible benefits plan (Cafeteria Plan) for employees and evaluating employees' benefit plans which may be impacted by IRS rules and regulations; Tony Puckett on labor-related issues; Susan Zwaan to perform the duties of the City Prosecutor in the absence of the Prosecutor; and authorize the Mayor and City Clerk to execute the agreements. Exhibits: None. Action: Approval.

24. Consider approving the following contract extensions: A) Employee Assistance Program (EAP) Services with Integris Health, Inc.; B) FD Polo Shirt with T and S Printing, Inc.; C) Employee Physicals/Drug Screen Testing with The Center for Occupational Health; D) Workers Compensation Administration Services with Southwest Risk Management; E) Pre-Sort Mailing Service with Southwest Mailing Service; F) Group Health and Dental Plan Administration Services with Managed Health Resources; G) Life Insurance with Managed Health Resources; and H) Plexar Telephone with SBC Southwestern Bell. Exhibits: None. Action: Approval.

25. Consider awarding contract for Refuse Containers. Exhibits: Recommendation; Abstract. Action: Award to Roll Offs USA, Durant, OK.

26. Consider awarding contract for Collection of Overdue Utility Bills. Exhibits: Recommendation; Abstract. Action: Award to Retail Merchants Association aka Credit Bureau of Lawton.

27. Consider awarding contract for Custodial Maintenance Group I. Exhibits: Recommendation; Abstract. Action: Award to Pride's Janitorial.

28. Consider approval of appointments to boards, commissions and trusts. Exhibits: Memo.

Mayor's Commission on Status of Women: Beverly Wooley

29. Consider approval of Minutes of Lawton City Council meeting of May 14, 2002.

30. Consider approval of payroll for the period of May 13 through 26, 2002. Exhibits: None.

UNFINISHED BUSINESS:

31. Hold public hearings and adopt a resolution declaring the structure at 425 S Sheridan Road to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety; authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. Exhibits: Resolution No. 02-86.

Angie Alltizer, Neighborhood Services, said she was passing around copies of a letter that was sent to Mr. Mansell regarding this property dated May 15, 2002; attached to that is the letter that was sent to him regarding the same property on March 7, 2001. She requested Council direction regarding the structure at 423 and 425 S Sheridan Road. Shanklin asked if this is what was sent a year ago or just recently. Alltizer said the top copy is the one mailed last week and the next two copies are from Jimmie Crow, Building Development, and from Manny Cruz, Neighborhood Services, regarding an inspection in March 2001.

Ewing-Holmstrom said when Mr. Mansell and his attorney were present two weeks ago she asked how long it had been since someone had been in the property and his response was two years, but she said she was just positive that no one had been in that building for at least the last five years. Alltizer said she thought it was closer to five years since the property had been occupied.

Baker said we met with Mr. Mansell, went over the list and discussed the items needing attention. He said Mansell indicated he could take care of them but needed a little bit of time, there was discussion about how much time, and Mansell indicated he could get all the things corrected within 60 days. Baker said he told him he did not have a problem with that but it was up to the City Council for disposition of this item.

Ewing-Holmstrom said she had a problem with that, we have given him over a year.

Devine said he did not want to dispute Mr. Baker's words but when the meeting was held, Mr. Mansell asked for 30 days and Baker said he would not have any problem with 60 days; Mr. Mansell has already started working on cleaning the building up and Mansell asked for 30 days but the City Manager offered him 60 days, and at the end of whatever time if the work is not done, we need to move forward.

Bass asked if Mansell will have 15 days, plus another 90 days, if Council condemns it. Alltizer said he will have 15 days to obtain either a demolition or remodel/reconstruction permit, then he must start within the first 30 days and complete within 90 days; if he is making adequate progress and reaches the end of that 90 days, an extension can be requested and it is up to Council's discretion.

Baxter asked for clarification regarding the meeting with Mansell. Baker said Devine's comments were true; Mansell said he thought he could get it done in 30 days and they discussed it a little more and looked at some of the items and he (Baker) said he did not know if Mansell could get it done within 30 days and indicated that if Mansell could get it done in 60 days, that would be acceptable to him.

Ewing-Holmstrom said it has been a year and two months since Mr. Mansell got the original list from Neighborhood Services, so staff does all this work, brings it to Council, writes this letter and a year and two months later the guy still has not done anything. She said if this was in a residential neighborhood, we would likely not be having this discussion and the house would have already been torn down.

Hanna said the Council as a group started, about a year and a half ago, trying to get Lawton cleaned up, and if concessions are made for one, they have to be made for all, which would put them back to square one again.

Vincent said he was reading the list from the May 15 letter, comparing it to the permit requirements in the proposed resolution, and he was not sure anything on that list would require a remodel permit and asked if that was correct. Alltizer said no, it actually does not, but because it was being brought before Council to be considered a dilapidated structure and specifically a blight on the neighborhood, these are things that while they do not necessarily require a permit in the normal permitting process, it is something we feel Council should advise and take action on. Vincent said if Council approves the proposed resolution, they would not have the control of the permit that we are actually indicating they might have in a normal situation. Alltizer said it could be pursued through the Property Maintenance Code and issue citations on a daily basis for each day the violation exists. Vincent said the permit is not there and Alltizer agreed.

Shanklin said the problem is, if you do one, you have to do all of them just alike or the judges over there will not support you. He said if you pass the resolution, Mansell will have more time than he asked for and he has known about it. Shanklin said he just found out this week that Mr. Baker gave Mansell 90 days on a boathouse, and nothing was done then a request was made for 30 more days and he assumed it was done but did not know. He asked if that was correct. Alltizer said significant progress was made on the boathouse.

Mayor Powell asked what action was desired. Devine said he would like to give Mansell another 30 days, table it for 30 days and then it would be up to Council to make a decision. Devine asked if Vincent was saying Mansell would not have to get a building permit if it was condemned. Vincent said based on the list of items in the May 15 letter, he did not see anything that required a remodel permit. Devine asked if Mansell would only have 15 days to get that list done. Vincent said the resolution would have to be modified. Devine said it was not reasonable to expect the work to be done within 15 days. Ewing-Holmstrom said Mansell has had a year. Vincent suggested deleting the line requiring the remodel permit and say he has 30 days to demolish the structure or meet the requirements of the letter of May 15, and make those changes to the resolution.

Hanna asked if Mansell had a number of outstanding tickets at this time. Alltizer said no, not at this time. Hanna asked if tickets could be issued every day. Alltizer said that could be done, although they like to work with the citizens and not try to punish them, but that is the only other real avenue we have. Alltizer said there is a similar situation at 707 Gore, the items that need to be completed do not require a permit.

Devine said when you give them the authority to start writing tickets, and he would not mention the man's name, but a person had \$35,000 worth of fines and that is totally ridiculous. He said it is a little different situation with Mansell.

Shanklin said it does not have to come back to Council if the resolution is passed.

Alltizer said they had not been writing tickets on dilapidated structures or ones that are considered blights, and the person Councilman Devine was referring to had code violations of a different nature.

Bass asked Vincent to explain again. Vincent said the remodel permit only kicks in for certain things, like structural remodeling. Shanklin said the person can remodel or demolish, or the City will take them to court, and that has been the process for the last six months or a year, but now someone is wanting to modify it. Vincent disagreed and said on this particular structure, a remodel permit based on this list, is not required, so the resolution could be amended if Council desires to grant 30 days for the owner to demolish the building or complete the requirements of the attached letter, and do away with the language about a remodel permit, and if he does not make those corrections, it goes to court at the end of the 30 days if we are saying it takes 30 days to correct these items. Shanklin said if you deviate on this one, they will deviate up there at the courthouse, and this is not the only thing he will see in the next six months.

Baxter said the May 15 letter says repair the roof and he asked if there was a hole in the roof from fire damage. Alltizer said from fire damage and from last year's Memorial Day storm. Baxter asked if replacing trusses or load bearing items would require a remodel permit. Alltizer said they were not allowed to inspect this year, and it is based on the inspection from last year and that nothing had changed from a visual inspection from the outside of the property. Alltizer said the list was compiled from what they could see from the outside, what was done from the inspection last year, and then on Council's recommendation at the last meeting that because it is commercial property to not require that the plumbing and electrical be brought to code because we do not know what the use of the building will be, and those are things that would definitely require a permit. Baxter asked if we had been on the roof. Alltizer said she had not and you can see the holes from the ground.

Mayor Powell said there is a motion on the floor made by Devine, and it is his ward, with the amendment to the motion suggested by the City Attorney.

Hanna asked if Alltizer said we could not get in to inspect. Alltizer said they were not allowed the opportunity this year by the property owner. Hanna asked if the Health Department or Fire Department could do so in light of safety issues. Alltizer said if we wanted to force the issue we probably could but Neighborhood Services chose not to do that, we were trying to work with the property owner. Devine said if they want in, Mr. Mansell would be more than happy to let them in.

Mayor Powell said there is a motion on the floor. Shanklin asked what is the motion. Devine said the motion was to give him the 30 days as Vincent mentioned about amending the 30 days. Shanklin asked if the motion was to pass the resolution. Vincent said his understanding was the motion to amend the resolution to allow for 30 days for the demolition permit or to complete the items on the May 15 letter and if not, then we go to court. Shanklin said 15 days is not mentioned anywhere in that resolution. Devine said it was being amended for 30 days because a permit is not required.

Mayor Powell asked if there was a second to the motion and there was none.

MOVED by Baxter. SECOND by Shanklin, to pass Resolution No. 02-86 and consider 425 S Sheridan Road to be dilapidated and dangerous, fire hazard, detrimental to the public health and safety and a blighting influence on the community. AYE: Haywood, Baxter, Bass, Hanna, Ewing-Holmstrom, Shanklin, Moeller. NAY: Devine. MOTION CARRIED. (*Note: See public hearing below)

(Title) Resolution No. 02-86

A resolution declaring a certain structure to be a dilapidated public nuisance, detrimental to the health, benefit, and welfare of the community; ordering the dilapidated structure be brought to habitable standards or demolished and removed; and authorizing the City Attorney to initiate legal action in Comanche County District Court to abate such nuisance.

32. Consider authorizing staff to prepare plans and specifications for the Wolf Creek Bridge Painting/Repair Project #2002-15 and identifying a funding source. Exhibits: Letter.

Ihler said there was a question as to whether the city, county or state was responsible for this bridge and staff has verified the maintenance responsibility is the city's. He gave a history of the area as far as the maintenance responsibility.

MOVED by Shanklin. SECOND by Baxter, to authorize plans for the project and identify the funding source as the 1995 CIP. AYE: Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

BUSINESS ITEMS:

33. Hold public hearings and adopt a resolution declaring the structure at 1015 SW Railroad Street to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety; authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. Exhibits: Resolution No. 02-87.

Alltizer said the owner has requested this action to be able to receive a 50% reduction in landfill fees.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood. SECOND by Moeller, to approve Resolution No. 02-87. AYE: Shanklin, Moeller, Haywood, Baxter, Bass, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

A resolution declaring a certain structure a dilapidated public nuisance, detrimental to the health, benefit, and welfare of the community; ordering the dilapidated structure be brought to habitable standards or demolished and removed; and authorizing the City Attorney to initiate legal action in Comanche County District Court to abate such nuisance.

It was noted that a public hearing was not convened in regard to Item 31. Mayor Powell declared the public hearing open at this time concerning the property at 425 S Sheridan Road. No one appeared to speak and the public hearing was closed; he asked that the record stand as was previously voted.

Due to persons in the audience wishing to speak, Item 35 was considered at this time.

35. Consider entering into a professional services agreement to provide consultation services to the City of Lawton to allow the City to participate in the possible privatization of electric distribution services on Fort Sill, direct staff to negotiate the agreement and authorize the Mayor and City Clerk to execute. Exhibits: Letter and related information presented under separate cover.

Mayor Powell said he initiated this item. He said approximately two months ago Gene Love, Bob Milner and Dan Lau asked to meet with him and they talked about Lawton providing electrical services for Fort Sill; this is a mandate that has come up on all military installations. Mayor Powell said he asked then if this was a controversial issue, meaning would this be acceptable in the eyes of the personnel at Fort Sill, and he was assured it was not a controversial issue of any kind at all. He said after he heard their offer, he thought it was necessary to get Baker, Vincent and Livingston involved in the next meeting, and that was done and the same discussion was held. Mayor Powell said he then asked that everything be put in writing and then a third meeting was held and Baker, Vincent and Livingston attended, as well as Love, Milner, Lau and himself. He said he told that group that he would not proceed until he heard from the Commanding General at Fort Sill that he was in total agreement with this feasibility study going forward and that they were a party to this. Mayor Powell said he received that word three weeks ago at a function he attended with the General and he told Council at the last meeting that information had been distributed then to allow for ample study in this area. He said Love, Milner and Lau are present and this is not unique to those gentlemen, they have provided these types of services and they will answer questions.

LTC Puckett said a Department of Defense perspective would be, and he is not their official voice, but the Secretary of the Army has pushed outsourcing of all the services at army installations, and in an ideal world with Lawton co-located with Fort Sill, it would be perfect if Fort Sill was provided all services by the City of Lawton. He said he understood that could not be done in all departments, and the water issue was recently considered, but this is a favorable move even though it is just one service but it is a step forward. LTC Puckett said from an army perspective, this is the right way to do it so they can focus their efforts on war-time readiness and not have to worry about services.

Dan Lau said there is an effort on the Department of Defense to privatize a lot of these functions that are on military installations in the United States, which brings into question the electric distribution system. If this project is to go forward it would put the City of Lawton in the retail electric service business being the electric supplier to Fort Sill. To accomplish that a feasibility study is needed to determine the asset value of the distribution system, the types of revenue that would be generated, identify the potential power producers we could buy the energy from, and the cost of the construction, maintenance and serving of the distribution system.

Shanklin asked who we would compete with and if it would be PSO. Lau said no, you would basically be starting from an entity that was at one time being served and maintained by the United States Army at Fort Sill and those facilities would then become City property. Lau said there are 63 municipalities in Oklahoma that are in the electric business and there is nothing that prohibits the City from getting into that business and it is not a direct competition with the local electric company.

Moeller asked about time lines, first the feasibility study and the steps until it would be fully operational. Lau said the feasibility study can be accomplished in 90 days, and from that point if everything is favorable and we go into phase two, there would be more specific documentation that would need to be done, and then Fort Sill putting out a request for proposals. Lau said if the City then chose to go forward, they could probably have that work accomplished in four to six months; at that point it Fort Sill would review all the proposals it receives and determine which supplier they wish to go with. Lau said that process could take anywhere from 60 days to 12 months, it is really an unknown, however, since there has been some privatization on military installations, specifically the gas distribution system last year, these things tend to go a little bit faster, you are not going through uncharted territory. Lau said 12-14 months would be the most optimistic and it could be 18-24 months.

Shanklin said he read this as the City risking \$38,000 now and asked what we could expect to make. Lau said they obtained information from Fort Sill on the gross energy being delivered to them now and he would feel comfortable that if the assets could be purchased for fair market value, it could be several hundred thousand dollars, and that

would be net revenue or free cash flow to the City of Lawton on an annual basis. Lau said you cannot determine that number until the feasibility study is done, an inventory is made of the assets, and the other things mentioned. Shanklin asked if the City of Lawton would run the plant and staff it. Lau said that is one option, we would have that option as most municipal electric systems do today or there are other provisions where you may outsource that type of work.

Devine asked if this was basically the same thing the Council talked about before on the water. Mayor Powell said there are some similarities although this you can pretty well see, whereas you cannot see the water or sewer lines, but this can be seen and you would know exactly what you are dealing with.

Hanna said Fort Sill has been hit pretty hard in the past few years with storms that have damaged trees and power lines. He asked if this would become the responsibility of the City of Lawton to get this all back in working order. Lau said yes. Hanna asked if that would be taken into consideration in the values because it could be a big loss in that it has taken Fort Sill weeks to get it back in order. Lau said that is part of being in the business and that is something that 63 cities in Oklahoma deal with every year, and he and Milner have had experience with floods, tornadoes and straight winds and what kind of infrastructure the City would have to have to do that, but it is certainly something that is common in the industry.

Mayor Powell said Hanna's comments would be taken into consideration as far as the actual cash value of the assets, and contrary to what Devine was saying, you cannot see the holes in the sewer lines, and that is the difference between that and the electrical items because you can see them. He said the same question had been asked in their meeting and it would deal with the actual cash value of the infrastructure.

Shanklin asked if Cotton Electric could bid on it. Lau said they could and they would have to go through the process of determining what the system is worth, and if Fort Sill advertises RFP's, Cotton Electric could bid on it but there is nothing that precludes the City from participating; it is an undesignated area. Shanklin said he did not profess to know how to buy or sell energy and asked if the government would determine how much money would be made. Lau said no, the City Council would set the prices on the sale of the electricity to Fort Sill. Shanklin said within reason, naturally. Lau said absolutely. Devine asked if that would stop them from going elsewhere to buy electricity if our prices were too high. Lau said if the City owns the electric system, then they are the energy provider and under the structure to date, Fort Sill would be required to take the electricity from and through the City of Lawton, just as the citizens are required today to take it through PSO within the City limits.

Devine asked who owns all the equipment out there now, the lines, transformers, stations. Lau said Fort Sill. Devine asked if we would have to purchase them from Fort Sill. Lau said yes, and that is part of the feasibility study to determine the fair market value of those facilities. Devine said he thought it was worth the \$38,000 to look at the first phase.

MOVED by Devine, SECOND by Moeller, to approve entering into a professional services agreement to provide consultation services to the City of Lawton to allow the City to participate in the possible privatization of electric distribution services on Fort Sill, direct staff to negotiate the agreement and authorize the Mayor and City Clerk to execute. AYE: Moeller, Haywood, Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

34. Consider receiving a brief presentation and acknowledging the receipt of the Master Plan Report submitted by Burns & McDonnell as a part of the Landfill Expansion Project #2000-18 for the City of Lawton Landfill. Exhibits: Executive Summary.

Ihler said as part of the 2000 CIP, funding was provided for construction of cells two and three at the landfill; construction is complete and those cells are ready to receive trash. The maintenance facility was designed and it is on hold pending a DEQ permit. Burns & McDonnell was also tasked to provide master planning, permitting and design work necessary for the development of the landfill in the future. He introduced Chris Hotop with Burns & McDonnell.

Hotop said he is a civil engineer and the project manager with Burns & McDonnell Engineering in Kansas City, Missouri. Their job was to assist the City in developing the most cost efficient and effective layout and operations plan for the landfill expansion, taking into account the issues of soil management and the best utilization of the land area available for air space utilization. Slides were used to illustrate this presentation. The current landfill includes 160 acres, as well as an additional area to the east which is used for leachate and sedimentation basins; the closed landfill is to the north of the existing landfill. He pointed out the southeast fill area, which is a non-sub-title D or unlined portion; he pointed out the sub-title D portion that has liners to meet the current state and federal regulations.

Hotop said in 2000 the City was granted a 50 foot vertical expansion by the State of Oklahoma, which gave quite a bit more air space. Based on the current fill rate of 500 tons per day, there is approximately eight years remaining in the existing landfill area. The property the City purchased, referred to as the Silk property, is 431 acres and the

maintenance facility and scale house are planned to be located in the northwest corner of that area, which is currently used for a borrow source for daily cover. The 100 year floodway encroaches here and will have to be dealt with during the permitting process.

Hotop said they discussed several options for expansion and narrowed it down to a full overlap and a no overlap scenario. Overlap means overlapping the existing landfill and using air space, imagining a saddle or a U shape, and the overlap would be used for waste. We assume that the infilling of the expansion would begin in the year 2011. A power point drawing was presented of the full overlap scenario, showing the existing landfill, sub-title D area, pre sub-title D area and the overlap would come onto the existing landfill. It would require the vacation of Tinney Road. Advantages of the full overlap would be to gain an additional two million cubic yards of air space, which equates to six to eight years of additional life. There is offsite storm water and the full overlap allows for easier diversion of that and it would not have to be routed through a sedimentation basin or detention pond. Also, because Tinney Road would be abandoned, it allows the existing leachate and sedimentation basin to be used because pipes would not have to be run under the road and a trench could be cut through to route it to the existing facilities. There is a potential to have to re-size the leachate basin but by the time this expansion is constructed, the leachate production should be tapered off in the existing landfill and none should be added. An obvious disadvantage would be the abandonment of Tinney Road. In the sub-title D area the leachate is routed along Tinney Road to the existing basin and it would have to be re-routed to the west and north and that has not been designed but it would have to be taken into account.

Hotop said with the no overlap scenario, an obvious advantage is that Tinney Road would remain in place. Disadvantages would be the requirement to build an additional four cells to achieve 30 years of life, it would add about 500 feet to the south and the existing stormwater basins cannot be used. It may be possible to use the leachate basin but the pipe would be under the road making it more difficult to design. The sedimentation basins probably could not be used because of the strength of Tinney Road. Also, it does not use the overlap volume which is approximately 2 million cubic yards. Another disadvantage is the State could view this as a new landfill instead of an expansion, requiring more effort in the permitting process.

A cost comparison was given between the two options; site work will be performed by City staff so the comparison includes the bottom liner system, leachate system and final cover system. The no overlap scenario is approximately \$2.2 million more expensive than the full overlap. There is almost a direct correlation to the excavation footprint required for the no overlap versus the full overlap, 150 acres versus 110 acres, which is almost a direct correlation to the cost. If the State does not require a composite liner system over the existing pre sub-title D area, another \$1 million in savings could be achieved, so there could be \$2-\$3 million in savings by using the full overlap option.

Hotop said the full expansion using the full overlap would add approximately 14 million cubic yards or about 25 years of additional life above and beyond the 30 years so we are looking at a total of about 55 years of life with this full expansion. He said his recommendation, after analyzing all the options and cost-benefit analysis of the full overlap versus no overlap scenarios, he recommended accepting the master plan report and authorizing Burns & McDonnell to proceed with the full overlap design option based on the reasons given, it will save approximately \$2-\$3 million, extends the life of the landfill by six to eight years, and it simplifies the permitting process allowing for an expansion permit rather than a new landfill permit.

Shanklin asked what could be saved in tonnage and space by composting the grass and limbs. Ihler said it would be about 20% for the entire year, and in the summer it is about 40%. Shanklin said Council should keep that in mind when budget discussions come up again.

Ihler said staff agrees with the recommendation of Burns & McDonnell to authorize them to proceed with the full overlap procedure that would save \$2-\$3 million over a 30 year life. A motion was offered in this regard and Mayor Powell said the agenda item would allow only for receiving the report, and a future item could be presented to allow this to take place.

36. Consider directing staff to prepare and submit an EPA grant application for the rehabilitation of wastewater infrastructure and authorize the Mayor and City Clerk to execute said application. Exhibits: None.

Ihler said the Oklahoma Congressional delegation was able to persuade Congress to earmark \$2 million for the City of Lawton in the 2002 EPA appropriations for special wastewater infrastructure projects. This item authorizes execution of the application that should be complete in early to mid-June to submit to EPA to receive the \$2 million, which will be incorporated into the sewer rehabilitation program. Phase one is financed through the Oklahoma Water Resources Board so the recommendation is to do the first two projects in phase two, which will not start until 2005 to 2007, but the grant is also a 55% match which is met with the in-house sewer rehabilitation program. It lessens the amount of the total bill for the citizens for the entire 21 year program that is in effect.

MOVED by Baxter, SECOND by Hanna, to direct staff to prepare and submit an EPA grant application for the rehabilitation of wastewater infrastructure and authorize the Mayor and City Clerk to execute said application.

Shanklin asked if this would require hiring any more people for the rehab. Ihler said a phase two schedule would be submitted to DEQ. Shanklin asked if this would change any of that and Ihler said no. Shanklin said this just saves us money and Ihler agreed.

Devine suggested future planning be done to try to obtain the cent sales tax to keep in reserve for matching funds for grants that may become available, after that tax expires.

VOTE ON MOTION: AYE: Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

37. Consider approving a contract with the Oklahoma Department of Corrections for the use of inmate labor in certain City of Lawton public works projects; specifically, but not limited to the clearing, cleaning and maintaining of City alleys and other public real property. Exhibits: Public Works Project Contract; Addendum to Public Works Project Contract.

MOVED by Shanklin, SECOND by Haywood, to approve the contract with the Oklahoma Department of Corrections.

Tim Wilson, Assistant City Attorney, said the contract will expire at the end of June but there should be no problem renewing it for the coming fiscal year. Shanklin asked how many days they would be able to work. Wilson said the contract provides a minimum commitment of one day a week for six to eight hours, and hopefully they can do more, but the contract states if either party is not happy with the arrangement that it can be canceled with 30 days' notice.

VOTE ON MOTION: AYE: Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

38. Consider awarding a construction contract to Quicksilver Construction Company, Inc. for the West Industrial High Zone Pump Station #1 Project #2001-20. Exhibits: None.

Ihler said \$500,000 was appropriated in the 2000 CIP for replacing the pumps and additional work at Pump Station #1 which serves the west industrial park, including Goodyear, Bar-S, Republic Paper and other industries in that area. Bids were received on May 7 and staff recommends awarding to Quicksilver Construction Company from Norman although they were not the low bidder.

Ihler said reasons for the recommendation are that the largest contract the low bidder had provided was a \$320,000 lagoon project, which was not a pumping facility; for those that dealt with pumps, they had a \$60,000 project and a \$35,000 project. The second low bidder had much larger projects, but of more importance, the low bidder's references were not very positive with regard to timeliness in completing the project or in cooperation. Of the four projects they provided references on, three of them listed that they had change orders of significant amounts which raised the original price of the contract. The last question asked to each of the references was whether they would hire them again and two of them said absolutely not and one of them said only for a certain type of project. Because of that, staff is recommending award to Quicksilver, the second low bid, whose references were very good with regard to timeliness, cooperation and so forth. Ihler said for these reasons and because of the importance of the project serving Goodyear, we recommend going with the second low bidder.

MOVED by Shanklin, SECOND by Baxter, to award the contract to Quicksilver Construction for the West Industrial High Zone in the amount of \$452,193, including the base bid with alternates two, three and four. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter, Bass. NAY: None. MOTION CARRIED.

39. Consider approving Change Order No. 1 for the SW Wendy Drive Street Reconstruction Project #2001-27 with Bruton Construction Co., Inc. Exhibits: Map; Residential Street Improvement Priority List. Note: Change order includes the removal/replacement of approximately 270 LF of SW 41st Street that is adjacent to the area under construction. Forty-five additional work days and approximately \$40,000 are included in the change order for this work.

Ihler said the 1995 CIP contained \$600,000 for residential street improvements and the first three projects on the priority list were started with those funds. Work is now far enough along to know there will be approximately \$41,000 remaining in the residential street improvement account, so the recommendation is to do 270 LF of SW 41st Street, which is adjacent to the area under construction, and to do that by change order to the SW Wendy project because of the good bid that was received.

Devine asked if these were asphalt streets. Ihler said the Wendy Drive contract was for concrete streets, which is what makes this so attractive; Crystal Hills and 75th Street were done in asphalt.

Moeller suggested SW 43rd Street also be done in this manner if funds allow.

Haywood said the residents in the area are very pleased.

MOVED by Moeller, SECOND by Haywood, to approve Change Order No. 1 and authorize Residential Street Improvement Funding for the SW Wendy Drive Street Reconstruction Project #2001-27 with Bruton Construction Co., Inc. AYE: Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

Addendum: Consider modification of the grant application to the Environmental Protection Agency and further amending the contract with CH2M Hill Engineering for professional services in an amount not to exceed the grant and authorize the Mayor and City Clerk to execute related documents.

MOVED by Baxter, SECOND by Moeller, to approve the item as recommended. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter, Bass. NAY: None. MOTION CARRIED.

Mayor Powell expressed appreciation to staff for having the work done in such a manner as to allow residents on the cul de sac to still be able to get to their homes during construction.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Haywood invited everyone to the grand opening of the Spray Park at 6th and Belmont in George Lee Park on May 31 at 2:00 p.m.

Ewing-Holmstrom noted school has recessed for the summer and everyone should watch out while driving for any children that may be out.

Devine said the employee picnic is June 1 at Lake Ellsworth and he encouraged attendance.

BUSINESS ITEMS:

40. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the possible litigation against Hillel Smulowitz and if necessary, take appropriate action in open session. Exhibits: None.

41. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending Workers' Compensation claim of Melissa Griffin against the City of Lawton, and if necessary, take appropriate action in open session. Exhibits: None.

42. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for an Employment Agreement for FY 2002-2003 between IUPA, Local 24, and the City of Lawton, and take appropriate action in open session if necessary.

MOVED by Baxter, SECOND by Haywood, to convene in executive session as shown on the agenda and recommended by the legal staff. AYE: Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter, Bass, Hanna. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 7:55 p.m. and reconvened in regular, open session at approximately 8:10 p.m. with roll call reflecting all members present.

Mayor Powell said he forgot to mention earlier that with regard to Fort Sill's electricity, there will be no up front costs. He said we are in a budget crisis and revenue bonds could have been considered for this, but Fort Sill would rather have that cost amortized out in their rate structure over a certain number of years and that is good news because we do not have the up front money.

Vincent reported on Item 40 that Council held executive session as shown in the item title. He said the Council received a report from the City Attorney's office and no action is required.

Vincent reported on Item 41 that Council held executive session as shown in the item title. He recommended a motion to authorize staff to enter into a joint petition settlement of this claim.

MOVED by Baxter, SECOND by Hanna, to approve as stated by the City Attorney. AYE: Shanklin, Moeller, Haywood, Baxter, Bass, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

Vincent reported on Item 42 that Council held executive session as shown in the item title. He said it is staff's recommendation that Council approve a motion to deny or turn down the current recommendation by staff of a possible contract resolution and authorize staff to re-enter negotiations.

MOVED by Shanklin, SECOND by Baxter, to approve as stated by the City Attorney. AYE: Moeller, Haywood, Baxter, Bass,

Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 8:15 p.m. upon motion, second and roll call vote.